

REMARKS

On April 12, 2002, Applicants submitted a Preliminary Amendment which included, *inter alia*, a claim for priority to U.S. Patent No. 09/663,255, which claims priority to Provisional Application No. 60/168,057, filed November 30, 1999 and a petition to add Mr. Younger Ahluwalia as an inventor. The petition was granted on November 14, 2002.

The Preliminary Amendment, as evidenced by a stamped return receipt postcard, was received by the U.S. Patent and Trademark Office on April 15, 2002.

An Office Action was mailed on April 25, 2002. Therefore, the Preliminary Amendment was mailed to and received by the U.S. Patent and Trademark Office before the April 25, 2002 Office Action was mailed.

In May 2002, counsel for the Applicants telephoned the Examiner and requested that a new Office Action be issued based upon the consideration of the Preliminary Amendment. The Examiner notified counsel that due to the routing of the file within the PTO, that the Examiner did not have the file and would not be able to issue a new Office Action before the deadline for filing a response.

To avoid payment of extension of time fees, Applicants submitted a Response on July 25, 2002, formally requesting that the Preliminary Amendment be entered and that a new Office Action be issued.

On October 23, 2002, the PTO issued a second non-final office action. However, this Office Action again fails to take into account the Applicants' argument in the preliminary amendment filed on April 12, 2002, that the Ahluwalia reference does not qualify as prior art.

Rather, the Office Action rejects claims 1-27 under 35 U.S.C. § 103 as being unpatentable over Ahluwalia in view of Meyer and rejects claims 1, 2, 10-12, and 14-27 under 35 U.S.C. § 103(a) as being unpatentable over Ahluwalia in view of Davies.

Applicants respectfully traverse and submit that, as stated in the preliminary amendment, the Ahluwalia reference cannot render the claimed invention obvious as the reference does not qualify as prior art. The Ahluwalia reference issued as a patent in October 1999, less than one year before the November 30, 1999 filing date of U.S. Provisional Application No. 60/168,057, to which the present application claims priority. The amendment of the claim for priority and the amendment of inventorship to add Mr. Ahluwalia, removes the Ahluwalia reference as prior art.


Applicants respectfully request reconsideration of the claims in view of the preliminary amendment and grant of the petition to amend inventorship and earnestly solicit prompt allowance of the claims. If the claims are not allowable, Applicants respectfully request that the next Office Action should not be a Final Office Action.

Applicants do not believe that any fee is required in connection with the submission of this document. However, should any fee be required, or if any overpayment has

been made, the Commissioner is hereby authorized to charge any fees, or credit or any overpayments made, to Deposit Account 02-4377. Duplicate copies of this sheet are enclosed.

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